

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Southern Communications Services, Inc.)	CC Docket No. 96-45
d/b/a Southern LINC)	FCC 97-419
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
In the State of Alabama)	

Comments of CenturyTel of Alabama, LLC.

CenturyTel of Alabama, LLC (“CenturyTel”) hereby responds to the Commission’s Public Notice seeking comment on the above-referenced petition by Southern Communications Services, Inc. d/b/a Southern LINC (“Southern LINC”) for designation as a competitive eligible telecommunications carrier (“CETC”) throughout the State of Alabama (the “Petition”).¹

Southern LINC’s CETC petition raises concerns similar to those presented in previous Alabama petitions.² Like most CETC petitions it has seen, CenturyTel believes Southern LINC’s Petition is too conclusory and does not satisfy its burden of proof for

¹ Parties Are Invited to Comment on Southern LINC Petitions for Designation as an Eligible Telecommunications Carrier in the States of Alabama and Georgia, DA 05-269, *Public Notice*, (rel. Feb. 1, 2005)(“Public Notice”).

² *Alltel Communications, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout Its Licensed Service Areas in the State of Alabama*, filed on Apr. 14, 2003, CC Docket No. 96-45 (“Alltel Petition”). *NPCR, Inc. d/b/a Nextel Partners Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama*, filed on Apr. 2, 2003, CC Docket No. 96-45 (“Nextel Petition”). *Public Service Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama*, filed in CC Docket No. 96-45 on Sept. 12, 2003 (“Public Service Cellular Petition”). *Louisiana Unwired, LLC Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama*, filed on Jan. 29, 2003 in CC Docket No. 96-45 (“Louisiana Unwired Petition”).

the “public interest” showing, as set forth in recent FCC decisions.³ Also, the goals of universal service are undermined when a wireless carrier is designated as a CETC and it does not provide all the supported services. Designation as a CETC is improper when an applicant such as Southern LINC admits they are not currently providing E911 service and gives no assurance as to when this service might be available, despite the fact that 14 public emergency service providers in the State of Alabama have requested Phase II service from them and have made arrangements for delivery of ALI information.⁴

I. DESIGNATION OF SOUTHERN LINC AS A CETC WOULD DISSERVE THE PUBLIC INTEREST BECAUSE IT THREATENS THE LONG-TERM VIABILITY OF UNIVERSAL SERVICE.

A. Southern LINC Has Not Met Its Burden of Proof

Section 214(e)(2) of the Act states, “before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.”⁵ The *Virginia Cellular Order*, released in January 2004, further interpreted this statutory requirement by finding that the value of increased competition, by itself, is not sufficient to satisfy the public interest test in rural areas.⁶ The Order set forth numerous other factors that should be weighed when determining whether designation of a CETC in a rural telephone company’s service area is in the public interest, including: (1) the benefits of increased competitive choice, (2) the impact of multiple CETC designations on the Universal Service Fund, (3) the unique advantages and disadvantages of the competitor’s service

³ *Virginia Cellular, LLC, Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket No. 96-45, FCC 03-338 (rel. Jan. 22, 2004).

⁴ *Southern Communications Services, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama*, CC Docket No. 96-45, FCC 97-419, at p. 8 (filed Sept. 14, 2004).

⁵ 47 U.S.C. § 214(e)(2).

⁶ *Virginia Cellular Order* at ¶28.

offering, (4) any commitments made regarding quality of telephone service provided by competing providers, and (5) the CETC's ability to provide the supported services throughout the designated service area within a reasonable amount of time.⁷ The *Order* also established that the CETC applicant has the burden of proving their designation is in the public interest.⁸

Southern LINC has not met its burden of proving whether the public interest is served by grant of their Petition. First, Southern LINC says in its Petition that the benefits of increased competitive choice afforded consumers by the offerings of wireless CETCs are well known to the Commission and have previously served as the basis for grants of CETC status.⁹ Such general comments do not show any unique advantages and disadvantages Southern LINC's service offerings will bring to the Alabama marketplace. Southern LINC seeks to be designated as a CETC to provide wireless ETC service throughout the rural areas within its service area in Alabama.¹⁰ However, Southern LINC is not bringing any "new competition" to its service area because it has been providing the same cellular communication services throughout Alabama since receiving their CMRS license in December 1995.¹¹ Therefore, it remains unclear to what extent Southern LINC requires any universal service funding to keep rates affordable and reasonably comparable for its customers, as required by the Act, or even offers a new competitive choice. Simply put, if the Commission were to grant Southern LINC's application for CETC designation and if Southern LINC began receiving high cost USF support as a result, it would be receiving a windfall for providing the same services they

⁷ *Id.*

⁸ *Id.* at ¶26.

⁹ Petition at p. 16.

¹⁰ *Id.* at 2.

¹¹ *Id.*

have been providing for years without universal service funding. Further, no controls are in place to deter potential abuse from those instances where wireless CETCs provide more than one cell phone to each household at little cost to the CETC, merely to increase the universal service funds they receive. Each additional cell phone results in additional dollars for the wireless provider based on the incumbent LEC's cost structure, yet the concept of universal service is not enhanced. In fact, evidence shows rural consumers, for the most part, continue to see CMRS as complementary to, but not a substitute for, their wireline local exchange service.

Second, Southern LINC states only that the financial impact of their receipt of high cost support on the overall size of the USF would be minimal.¹² Nowhere in their Petition does Southern LINC attempt to quantify or provide an estimate of how much high cost universal service funding they might receive. However, CenturyTel believes Southern LINC's annual USF receipt could be significant compared to other carriers in Alabama given that they serve such a large area of the state. Petitioner is seeking statewide designation with the exception of two counties in Alabama: Jackson County and Dekalb County.¹³ Even so, the *Highland Cellular Order* tells us that comparing the impact of one CETC on the overall size of the fund may not be conclusive and should be looked at on a larger scale.¹⁴ Therefore, given the large volume of CETC applications currently pending before the Commission and the potentially significant USF disbursements to Southern LINC in the instant case, the Commission should carefully

¹² *Id.* at 16.

¹³ *Id.* at 2.

¹⁴ *Highland Cellular, Inc., Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia*, CC Docket 96-45, FCC 04-37, at n. 73 (rel. Jan. 22, 2004).

scrutinize this and all other applications when deciding whether to designate them as ETCs and to disburse federal universal service funds.

Third, Southern LINC says it fully supports the Commission’s efforts to collect service quality data so the Commission can develop meaningful service quality rules.¹⁵ To that end, they commit that upon designation they will provide the Commission with an annual report providing the number of consumer complaints per 1,000 handsets in service.¹⁶ Basically, Southern LINC is not making any “real” service quality commitment with these statements, but only agreeing to do what the Commission required of Virginia Cellular in its Order.¹⁷ Southern LINC should have to show that they are doing something more than just filing an annual report for this assertion to be considered a “genuine” and “meaningful” service quality commitment that would truly benefit their customers.

As a final matter, Southern LINC’s Petition is unclear as to how they will provide the supported services throughout the designated service area within a reasonable amount of time. For example, Petitioner sets out the steps they will follow when a customer requests service in an area where Petitioner does not provide service at the time of the request.¹⁸ This is merely an attempt by Southern LINC to mimic the steps set forth by Virginia Cellular in its petition.¹⁹ However, Virginia Cellular also committed to construct 11 cell sites over the first year and a half following CETC designation.²⁰ Southern LINC also says they have allocated significant construction funds to improve

¹⁵ Petition at p. 13.

¹⁶ *Id.*

¹⁷ Virginia Cellular Order at ¶46.

¹⁸ Petition at p. 10.

¹⁹ Virginia Cellular Order at ¶15.

²⁰ *Id.* at ¶16.

and expand its coverage in the requested CETC service areas and that these improvement plans represent substantially greater levels of financial commitment in excess of the amount they expect to receive from the high-cost fund.²¹ However, as stated previously, Petitioner does not disclose how much they expect to receive from the USF annually or how much they are willing to spend. They also admit they do not currently have specific construction plans in place for implementation after obtaining CETC certification, saying only that they are just beginning to develop specific plans for projects to be completed in 2005.²² Basically, Petitioner is merely making “hollow” assertions in their Petition without giving any specific details to which they can be held accountable for in their annual certification.

B. The Increasing Number Of CETC Petitions In Non-Rural Study Areas Threatens To Undermine Interstate Access Support Under CALLS.

The growth in the number of CETC petitions in non-rural study areas threatens to undermine the universal service fund. As Verizon notes in its Comments in response to the Alltel Virginia Petition, the increasing number of CETC applications in non-rural areas has the potential to unravel the CALLS Plan and harm customers through rate increases for wireline service.²³ As a non-rural carrier in Alabama, CenturyTel receives CALLS support and urges the Commission to review the impact on the CALLS fund of multiple CETCs receiving high-cost support. In a state like Alabama, even though the study areas that CenturyTel serves were registered by Verizon as non-rural, the properties have rural characteristics with respect to density. Therefore, additional support is necessary to improve the former Verizon plant and to better serve customers.

²¹ Petition at p. 11.

²² *Id.* at pp. 11-12.

²³ Comments of Verizon, filed in CC 96-45 on June 30, 2003 at 1.

The Commission adopted the CALLS plan in an effort to reduce long distance rates, lower interstate access charges, and eliminate the CCL (“carrier common line”) and the PICC (“presubscribed interexchange carrier charge”).²⁴ Because CALLS support is capped at \$650 million, when a CETC receives CALLS support in a non-rural study area there is a reduction in overall support for interstate loop costs. CenturyTel estimates that, if all the CMRS carriers that applied for CETC status were so designated, ILECs would receive only 59 cents of every dollar of interstate access support they otherwise would have received. As a result, CALLS support to ILECs will be reduced from \$650 million to \$384 million. This reduction, in turn, will result in insufficient support to allow carriers to deaverage subscriber line charges (“SLCs”), thereby undermining the statutory requirement that support be “sufficient.”²⁵ In terms of consumer impact, such a reduction in support also will discourage carriers from investing in telecommunications infrastructure. As Verizon notes, since the *CALLS Order* was adopted in May 2000, there has been a significant increase in the number of ETC petitions in non-rural areas, and each additional CETC reduces the amount of CALLS support available. The Commission, however, has not made any modifications to the CALLS Plan to compensate for the increased pressures on the capped interstate access fund. In the short term, there appears to be no sign of a decrease in the number of CETC applications. To stop the bleeding, the Commission should thoroughly examine the impact of multiple CETC designations on the CALLS Plan before designating additional CETCs.

²⁴ Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service, Sixth Report and Order in CC Docket No. 96-262 and 94-1; Report and Order in CC Docket No. 99-249; Eleventh Report and Order in CC Docket No. 96-45, 15 FCC Rcd 12962 (2000).

²⁵ 47 U.S.C. § 254.

II. DESIGNATION WOULD BE IMPROPER IN THIS CASE

A. Designation Would Be Improper Because Southern LINC Is Not Currently Providing All Of The Supported Services Under 214(e)(1).

Under Section 214(e)(1) of the Act, an ETC applicant must be a common carrier and must offer and advertise the supported services throughout the designated service area to be designated an ETC.²⁶ However, Southern LINC admits in its Petition that they do not currently offer several of the supported services.²⁷

Southern LINC states they do not currently offer their subscribers access to operator services or toll limitation for qualifying low-income customers, but that they will be able to offer these services upon their designation as an CETC and receipt of universal service funds.²⁸ Basically, Southern LINC is not making any commitments to which they can be held accountable for. Southern LINC also admits that it is not currently providing E911 service, despite the fact that 14 public emergency service providers in the State of Alabama have requested Phase II service from them and have made arrangements for delivery of ALI information.²⁹ Southern LINC provides no assurance to the FCC as to when it will be able to provide E911 service, saying only that they anticipate the capability to provide this service in the future. Therefore, Southern LINC is not currently providing all supported services, in contravention of Section 214(e)(1), and its CETC application should be denied accordingly or, in the alternative, the Alabama PSC or the FCC should ensure Southern LINC is providing these services after their receipt of USF funding, within a reasonable amount of time.

Disbursing universal service support to carriers that do not provide all supported

²⁶ 47 U.S.C. § 214(e)(1).

²⁷ Petition at pp. 8 and 10.

²⁸ *Id.*

²⁹ *Id.* at 8.

services undermines and compromises the integrity of the universal service concept. An incumbent LEC that is an ETC and has failed to meet such designation requirements would no doubt be in jeopardy of losing its funding. Therefore, CETCs should be held to the same standards. To grant CETC status based on a hope and promise with no ability to compel compliance is not in the public interest and not proper stewardship of scarce universal service funding. The recent hearings and news accounts concerning the fraud, waste and abuse in the E-Rate program and the difficulties encountered with the Anti-Deficiency Act requirements only serve to underscore the importance of maintaining the integrity of a system that ultimately affects so many consumers. Carriers must be made to comply with all applicable rules and regulations and cannot be allowed to shortcut and game the universal service process.

B. Designation Would be Improper Because the Mobile Nature of Southern LINC's Service Offering Undermines the Universal Service Fund.

CenturyTel remains concerned that the mobile nature of Southern LINC's service offering may undermine the universal service fund. Pursuant to the Commission's rules, Southern LINC will receive funding based on the customer's billing address.³⁰ However, the customer's billing address may have no bearing on where the wireless phone is actually used; high-cost funds may be used to support service in non-high-cost areas if this Petition is granted. As the Joint Board found, "*the place of primary use* represents the preferred definition of wireless customer location for universal service purposes because it reflects whether a customer actually uses mobile wireless phone service as a primary connection in a high-cost area."³¹ The Commission should adopt

³⁰ 47 C.F.R. § 54.307(b).

³¹ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, FCC 04J-1, at ¶102 (rel. Feb. 27, 2004).

safeguards to ensure that federal high-cost funds are not used to fund services not used in high cost areas. It would be premature to designate Southern LINC or any further wireless carriers as CETCs until this issue is resolved.

III. CONCLUSION

For the foregoing reasons, the Commission should deny the Petition.

Respectfully submitted,

CENTURYTEL OF ALABAMA, LLC

/s/ Robert D. Shannon

Robert D. Shannon
CENTURYTEL, INC.
100 Century Park Drive
Monroe, LA 71203
(318) 330-6252

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